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April 23, 2018

VIA ELECTRONIC FILING

The Honorable Jocelyn G. Boyd
Chief Clerk/Administrator
Public Service Commission of South Carolina
101 Executive Center Drive
Columbia, South Carolina 29211

RE: Joint Application and Petition of South Carolina Electric & Gas Company and Dominion Energy, Incorporated for Review and Approval of a Proposed Business Combination between SCANA Corporation and Dominion Energy, Incorporated, as May Be Required, and for a Prudency Determination Regarding the Abandonment of the V.C. Summer Units 2 & 3 Project and Associated Customer Benefits and Cost Recovery Plans
Docket No. 2017-370-E

Dear Ms. Boyd:

Enclosed for filing, on behalf of South Carolina Electric & Gas Company and Dominion Energy, Inc., is a Response in Opposition and Objection to Petition to Intervene of Gordon Miller ("Response in Opposition") in the above-captioned docket.

By copy of this letter, we are serving counsel for Mr. Miller as well as the parties of record in the above-captioned docket with a copy of the enclosed Response in Opposition. For those parties of record who have executed the "Agreement for Electronic Service" we are serving the Response in Opposition via electronic mail. For those parties of record who have not executed this agreement we are serving those parties via U.S. First Class Mail.

If you have any questions, please do not hesitate to contact us.

Very truly yours,

K. Chad Burgess

KCB/kms
Enclosures

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(all via U.S. First Class Mail and electronic service w/enclosures)

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA
DOCKET NO. 2017-370-E

In Re: Joint Application and Petition)
of South Carolina Electric & Gas)
Company and Dominion Energy, Inc.,)
for review and approval of a proposed)
business combination between)
SCANA Corporation and Dominion)
Energy, Inc., as may be required, and)
for a prudency determination)
regarding the abandonment of the)
V.C. Summer Units 2 & 3 Project and)
associated merger benefits and cost)
recovery plans)

SCE&G AND DOMINION
ENERGY'S RESPONSE IN
OPPOSITION AND OBJECTION
TO PETITION TO INTERVENE
OF GORDON MILLER

South Carolina Electric & Gas Company ("SCE&G" or the "Company") and Dominion Energy, Inc ("Dominion Energy"), pursuant to 10 S.C. Code Ann. Reg 103-825(A) (2012), hereby respond in opposition to and object to the Petition to Intervene by Gordon Miller ("Petition"), which was filed with the Public Service Commission of South Carolina ("Commission") on April 12, 2018 in the above-captioned matter. For the reasons set forth below, SCE&G and Dominion Energy respectfully request that the Commission deny the Petition.

ARGUMENT

The grant or denial of a petition to intervene is within the sound discretion of the Commission. However, such discretion is bounded by guiding principles and factors. One such principle is that a party generally must have standing to

intervene. *See Ex Parte Gov't Employee's Ins. Co.*, 373 S.C. 132, 644 S.E.2d 699 (2007). To have standing, a party must have a personal stake in the subject matter of the proceeding. *See Duke Power Co. v. S.C. Pub. Serv. Comm'n.*, 284 S.C. 81, 326 S.E.2d 395 (1985) (stating that a party must have a "personal stake" in the subject matter of the proceeding). Under South Carolina law, the party asserting standing must show an actual or likely "invasion of a legally protected interest which is (a) concrete and particularized, and (b) actual or imminent, not conjectural or hypothetical." *Smiley v. S.C. Dep't of Health & Envtl. Control*, 374 S.C. 326, 329, 649 S.E.2d 31, 32-33 (2007) (quoting *Lujan v. Defenders of Wildlife*, 504 U.S. 555, 560-561 (1992) (internal quotations and citations omitted); *Sea Pines Ass'n for the Protection of Wildlife, Inc. v. S.C. Dep't of Natural Resources*, 345 S.C. 594, 550 S.E.2d 287 (2001). The person asserting standing "must be affected in a personal and individualized way by the [regulatory] decision." *Smiley*, 374 S.C. at 330, 649 S.E.2d at 33 (quoting *Lujan*, supra). The "imminent prejudice must be of a personal nature to the party laying claim to standing and not merely of general interest common to all members of the public." *Sea Pines Ass'n*, 345 S.C. at 600, 550 S.E.2d at 291. *See also* Order No. 2010-221, dated March 16, 2010, Docket No. 2009-489-E (applying the law established in *Ex Parte Gov't Employee's Ins. Co.* and *Duke Power* in ruling on petition to intervene); Order No. 2012-495, dated July 13, 2012, Docket No. 2012-203-E (applying the law established in *Smiley* and *Sea Pines Ass'n* in ruling on petition to intervene).

Mr. Miller has failed to state or provide any plausible basis supporting an assertion that he has an actual or likely "invasion of a legally protected interest

which is (a) concrete and particularized, and (b) actual or imminent, not conjectural or hypothetical.” *Smalley*, 374 S.C. at 329, 649 S.E.2d at 32-33 (quoting *Lujan*, *supra*). According to SCE&G’s customer service records, the Company does not provide electric service to Mr. Miller. See Exhibit A, Affidavit of Cindi G. Hux; Petition at 2 (stating that Mr. Miller’s mailing address is in Matthews, North Carolina, which is outside of SCE&G’s service territory). Therefore, he will not be affected (and does not assert that he will be affected) by the service rendered or rates charged by SCE&G if the Joint Petition is approved. Simply stated, Mr. Miller does not have a “personal stake in the subject matter of the proceeding” and does not possess the requisite standing to be a party of record in this docket because he is not an electric customer of SCE&G. *Cff. Duke Power Co.*, 284 S.C. at 98, 326 S.E.2d at 405 (holding that the actual ratepayers lacked standing because their asserted interests were “too contingent, hypothetical, and improbably to support standing to attack ... practices of the Public Service Commission”).

Furthermore, Mr. Miller’s claim that he is a stockholder of SCANA Corporation (“SCANA”) also is insufficient to establish standing in this matter. Mr. Miller asserts that his “substantial interest” in this matter arises out of his allegation that the “relief sought in the [Joint Petition] is not in the SCANA stockholders’ best interests,” “the consideration offered to SCANA stockholders significantly undervalues the Company,” and other baseless assertions relating to purported stockholder interests.¹ However, the Commission does not have

¹ To the extent Mr. Miller seeks to protect the purported interests of other SCANA stockholders, such relief also is outside of the scope of the Commission’s jurisdiction and

jurisdiction or authority over stockholder issues pertaining to SCANA and this proceeding does not relate to any actual or likely “invasion of a legally protected interest” over which the Commission could grant the relief sought by Mr. Miller. *See* S.C. Code Ann. § 58-3-140(A) (“[T]he commission is vested with power and jurisdiction to supervise and regulate the rates and service of every public utility in this State and to fix just and reasonable standards, classifications, regulations, practices, and measurements of service to be furnished, imposed, or observed, and followed by every public utility in this State.”); Order No. 2012-622, dated August 15, 2012, Docket No. 2012-203-E (denying a petition to intervene on the grounds of shareholder status and holding that the Commission “do[es] not have the jurisdiction to address shareholder issues.”) (emphasis added). In sum, because the Commission cannot grant the relief sought by Mr. Miller, the Petition should be denied.

Similarly, the Petition should be denied for the failure to state sufficient facts from which Mr. Miller's alleged right or interest can be determined. Pursuant to 10 S.C. Code Ann. Regs. 103-825(A):

A Petition to Intervene in a proceeding before the Commission shall set forth clearly and concisely:

- (a) The facts from which the nature of the petitioner's alleged right or interest can be determined;
- (b) The grounds of the proposed intervention;
- (c) The position of the petitioner in the proceeding.

authority. *See* Order No. 2017-702, dated November 8, 2017, Docket No. 2017-305 (“There is no language in Title 58 authorizing class actions to be brought before this Commission.”).

Here, Mr. Miller has failed to identify any alleged right or interest that the Commission can address or determine as part of this proceeding. Instead, his only identified “right or interest” arises solely from his purported ownership of SCANA stock and the determinations he seeks are not within the jurisdiction, power, or authority of the Commission to grant. *See S.C. Code Ann. § 58-3-140(A)*; Order No. 2012-622, *supra*. *See also Med. Soc’y of S.C. v. Med. Univ. of S.C.*, 334 S.C. 270, 275, 513 S.E.2d 352, 355 (1999) (“An agency created by statute has only the authority granted to it by the legislature.”). Moreover, Mr. Miller’s allegation that he “brings significant and unique expertise to this matter” does not give rise to facts sufficient establish standing to intervene in this matter. *See Anchor Point, Inc. v. Shoals Sewer Co.*, 308 S.C. 422, 418 S.E.2d 546 (1992) (“A real party in interest is one who has a real, material, or substantial interest in the subject matter of the action, as opposed to one who has only a nominal or technical interest in the action.”) (emphasis added).

CONCLUSION

Based on the foregoing, Mr. Miller has failed to meet the threshold required to qualify as an intervenor in this proceeding and his Petition to Intervene must be denied. Therefore, SCE&G and Dominion Energy respectfully request that the Commission deny the Petition to Intervene and grant such other and further relief as is just and proper.

[SIGNATURE PAGES FOLLOW]

Respectfully submitted,



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Cayce, South Carolina
Date: April 23, 2018



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Columbia, South Carolina
April 23, 2018

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V.C. Summer Units 2 & 3 Project and)
associated merger benefits and cost)
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AFFIDAVIT OF
CINDIG. HUX

Personally appeared before me Cindi G. Hux who, having first been duly sworn, deposes and states as follows:

1. My name is Cindi G. Hux and I am a Supervisor for Customer Service-Quality Assurance for South Carolina Electric & Gas Company ("SCE&G" or "Company"). Among other things, I am responsible for the investigation of customer accounts regarding matters filed with the Public Service Commission of South Carolina ("Commission"). I am competent to make this affidavit.

2. This affidavit is based upon my personal knowledge and review of documents received and maintained in the ordinary course of business by SCE&G. I am familiar with the records of SCE&G that pertain to its customers.

3. I conducted a search of the Company's records and determined that Mr. Gordon Miller is not an electric customer of SCE&G.

FURTHER AFFIANT SAYETH NOT.

Candice D. Hump

Sworn to and subscribed before me
this 23rd day of April, 2018

Karen MEEK Scruggs
Notary Public for South Carolina
My Commission Expires: 01/20/20



BEFORE
THE PUBLIC SERVICE COMMISSION OF
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Abandonment of the V.C. Summer Units 2 & 3)
Project and associated customer benefits and)
cost recovery plans)
_____)

**CERTIFICATE
OF SERVICE**

This is to certify that I caused to be served on April 23, 2018, one (1) copy of the **South Carolina Electric & Gas Company and Dominion Energy, Incorporated's Response in Opposition and Objection to Petition to Intervene of Gordon Miller** to the persons named below at the addresses set forth and in the manner described:

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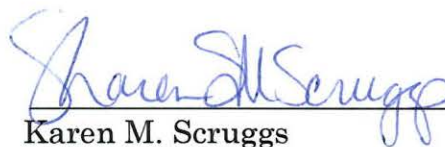
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